

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report Summary

Note: This report has been amended since it was originally distributed to council members and made available to the public. Edits are shown in tracked changes.

TO: Members of the Judicial Council

FROM: Ronald G. Overholt, Chief Deputy Director
Christine M. Hansen, Director, Finance Division, 415-865-7951
Stephen H. Nash, Assistant Director, Finance Division

DATE: August 27, 2004

SUBJECT: Trial Court Budget Request: Fiscal Year 2005–2006 (Action Required)

Issue Statement

The Judicial Council has statutory approval authority for trial court budget requests.

Recommendation

Staff recommends that the Judicial Council:

1. Direct staff to compile the funding needs from the trial courts in the following fiscal year (FY) 2005–2006 priority program areas:
 - Trial Court Staff Negotiated Salary Increases (NSIs) and Benefits;
 - Increased Costs for County Provided Services;
 - Court Interpreters' Workload Growth;
 - Trial Court Workers' Compensation Cost Increases;
 - Court-Appointed Counsel;
 - Trial Court Staff Retirement; and
 - Security NSIs, Retirement, and Other Benefits.

Once the final State Appropriations Limit (SAL) adjustment for FY 2005–2006 is known, staff will develop allocation recommendations for adjustments in those programs that fall within the SAL computation to the council no later than its August 2005 meeting.

2. Direct staff to submit fall Budget Change Proposals for any program increases in approved priority areas that are determined to be above the SAL percentage.
3. Develop a fall budget package with supporting schedules, to be updated in the spring, which applies the estimated SAL adjustment rate for the following fiscal year provided by DOF staff to overall trial court base funding to determine the annual SAL adjustment, consistent with the provisions of Government Code section 77202. Staff shall submit this package to the state Department of Finance (DOF), and, subsequently, to the Legislature.
4. Approve submission of a fall FY 2005–2006 budget change proposal (BCP) to adjust the base budget for the trial courts for ongoing structural deficiencies in the areas of new judgeships; historical base budget underfunding; provision of security that is below established security standards and the provisions of Senate Bill 1396, where the provisions still apply; and any other identified substantive ongoing structural deficiency.
5. Approve submission of a fall FY 2005–2006 budget change proposal to address the current FY 2004–2005 unfunded mandatory needs in the areas of court employee salaries, health benefits, and retirement; security salaries, benefits, and retirement; and increased charges for county provided services.
6. Authorize staff to seek additional one-time funds in the current year if, after resurveying the courts and updating their security needs, taking into account the \$22 million reduction, and allocating the \$4 million in one-time funds approved by the council at its July 7, 2004 meeting, it is determined that the overall court security budget remains insufficient to address public safety concerns in the state's trial courts.
7. Delegate to the Administrative Director of the Courts the authority to make technical adjustments to the recommended FY 2005–2006 statewide trial court budget proposals.
8. Authorize staff to submit a fall BCP if county governments impose costs on courts that are above the SAL adjustment percentage, or if there is a recognized need to accommodate other operational or programmatic changes.

9. Authorize staff to submit a fall BCP if legislation is proposed that would impose an increased financial obligation on the courts in FY 2005–2006.
10. Direct staff to affirm the Administration’s commitment that, based on the use of the SAL methodology for funding the trial courts, they will no longer be subject to one-time or ongoing unallocated budget reductions.

Rationale for Recommendation

Recommendations 1, 2, and 3. The preceding recommendations are consistent with the legislative provisions contained in Senate Bill 1102 regarding SAL, in terms of what types of cost increases are to be paid from within the SAL computation and those that can be requested outside of the SAL. Allocations of the funding received will be presented to the council no later than its August meeting, as the council is ultimately responsible for approving allocations to the trial courts.

Recommendations 4 and 5. Many courts still have a critical need for new judgeships. While the number of filings statewide has remained largely unchanged since the Judicial Council approved the 2001 California Judicial Needs Assessment Project, and its ranked list of 150 new judges proposed to be implemented over a three year period beginning with FY 2002–2003, the total number of filings and filings of the most complex case types have grown in a number of courts. More importantly, no new judgeships have been created since FY 2000–2001, resulting in an ongoing need that has not been addressed. Staff have updated the previous judicial needs assessment and will be presenting it, along with its new list of 150 ranked judgeships, to the council at this meeting.

Courts’ base budgets were established at the time state trial court funding was initiated. Negotiations were conducted between each court and their respective county with regard to a number of matters, including the division of the various fines, fees, and other payments made to the courts. Some courts had better relationships with their counties and were able to obtain a larger percentage of these revenues. Also, some counties were better resourced than others and were able to staff and pay their court employees better than others. These differences in the level of funding between courts have persisted to the present. The instituting of unallocated reductions, even those that are one-time in nature, has exacerbated the fiscal problems being experienced by many courts, and has negatively impacted the level of service provided to the public. Providing additional funding to these courts to enable them to add additional staff to relieve the burden on existing staff and to permit a more acceptable provision of service would be beneficial to their communities and the state as a whole.

Most importantly, it is critical that an appropriate funding base be established upon which the SAL adjustment will be computed; otherwise, we will continue to perpetuate ongoing structural resource deficiencies. Allowing unfunded current year mandatory increases to remain unaddressed will exacerbate existing underfunding problems in courts already hard pressed to provide an appropriate level of service, and will also hurt those courts that may otherwise be adequately funded. Personnel and security costs are two of the highest, if not the highest, cost categories the courts must fund. For the most part, these increases are beyond their ability to control. The DOF has acknowledged that these costs were not fully funded for FY 2004–2005 and that funding needs in these areas would be considered during the current year. For these reasons, this funding should be pursued.

Recommendation 6. The allocation methodology for the \$22 million security reduction, which was approved by the council at its July 7th meeting, involves a transition period. The first half of the reduction will be accomplished by prorating \$11 million among all 58 courts. The second \$11 million will be applied utilizing the interim funding standards approved by the council. Applying the standards resulted in no additional reductions for many courts and significant reductions for a relatively small number of courts. While the council approved the use of \$4 million from the Trial Court Improvement Fund on a one-time basis to assist those courts that are adversely affected by the implementation of the \$22 million security reduction in the current year, the reduction impact statements from those courts facing the largest reductions may indicate that without additional funding beyond the \$4 million, they will not be able to accomplish the permanent efficiencies that will enable them to meet their portion of the reduction. The kind of ongoing changes to security programs that will be needed to meet the reductions may not be possible to implement in a single year. If review of the impact statements justifies pursuing additional funding in the current year, this would also give these courts more time to develop such practices.

Recommendation 7. Changes may be necessary to the recommendations presented in this report. Quick decisions may be required to meet deadlines imposed by the DOF, or other agencies. This recommendation will give the Administrative Director the authority to address these issues without the need to bring the matter back to the council.

Recommendations 8 and 9. Mandatory cost increases are not anticipated in the above areas; however, it is possible that the state or counties may propose and/or pass legislation that will impose increased costs on the trial courts. These types of obligations are acknowledged by the DOF to be exemptions to funding within the SAL percentage change. A fall funding proposal to the DOF should be submitted to address them should the need arise.

Recommendation 10. The Budget Act of 2004 will require courts to absorb significant ongoing and one-time unallocated budget reductions during FY 2004–2005. These reductions will result in some courts making permanent changes in the way they do business and in the level of service they provide to their community. In order to prevent further erosion of service and to ensure public safety within trial court facilities, staff should endeavor to prevent any additional one-time or ongoing unallocated reductions to trial court budgets in FY 2005–2006.

Alternative Actions Considered

Recommendations 1, 2, and 3. An alternative that was considered was to not submit any BCPs for this fiscal year. This would require the courts to fund all cost increases within the SAL adjustment, regardless of the county driven cost increases. This may result in some courts not being able to meet other mandatory needs in order to be able to pay their security increases.

Recommendations 4, 5, and 6. An alternative would be for the Judicial Council to take no action with regard to seeking funding of structural deficiencies, ongoing and one-time, at this time. This would result in perpetuating the long-standing need of courts for additional judicial positions and the continuing long-term use of assigned judges by some courts. It would also mean that the SAL computation would be made on a trial court budget that is insufficient. Again, this would result in the continuance of inadequate levels of funding for already underfunded courts.

Recommendation 7. This is a technical item. No alternatives were considered.

Recommendations 8, 9, and 10. No alternatives other than taking no action were considered.

Comments from Interested Parties

None.

Implementation Requirements and Costs

After consideration by the Judicial Council, BCPs will be prepared for the two program areas proposed for fall submission and submitted to the DOF in late September. For those program areas that fall within the SAL, staff will identify trial court funding needs and develop allocation recommendations that will be presented to the council in summer of 2005.

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

Note: This report has been amended since it was originally distributed to council members and made available to the public. Edits are shown in tracked changes.

TO: Members of the Judicial Council

FROM: Ronald G. Overholt, Chief Deputy Director
Christine M. Hansen, Director, Finance Division, 415-865-7951
Stephen H. Nash, Assistant Director, Finance Division

DATE: August 27, 2004

SUBJECT: Fiscal Year 2005–2006 Trial Court Budget Request (Action Required)

Issue Statement

The Judicial Council has statutory approval authority for trial court budget requests.

Fiscal Year 2005–2006 Budget Request Process

Administrative Office of the Courts (AOC) Finance Division staff met with the Trial Court Executive Management Budget Working Group in early January 2004 to seek their input on budget program funding priorities for FY 2005–2006. The consensus of the working group was to continue to submit requests for funding only in those program areas where the court has little or no control over increased costs.

On February 4, 2004, staff met with the Judicial Branch Budget Advisory Committee (JBBAC) to consider budget priorities for trial courts and the judiciary for FY 2005–2006. Staff and JBBAC concurred on the following trial court budget priorities:

- Trial Court Staff NSIs and Benefits;
- Trial Court Staff Retirement;
- Trial Court Workers' Compensation Program Cost Increases;
- Security NSIs, Retirement, and Other Benefits;

- Increased Costs for County Provided Services;
- Court Interpreters' Workload Growth;
- Capital Outlay – Trial Court Facilities; and
- Court-Appointed Counsel.

In addition, it was decided that staff should be directed to review erosion of base budget and equalization of funding issues for the trial courts and the impact these have had on ongoing operations and develop a funding proposal if it is determined to be appropriate.

At the February 27, 2004 Judicial Council business meeting, staff presented the recommended priorities for the council's consideration. The Judicial Council approved the recommended trial court budget priorities for FY 2005–2006.

Consistent with the approved priority areas, a FY 2005–2006 trial court budget development package, including Budget Change Information (BCI) forms for the following program areas, was sent to the courts in late April 2004. The package requested court cost information in the following areas:

- Trial Court Staff NSIs and Benefits;
- Trial Court Staff Retirement;
- Trial Court Workers' Compensation Program Cost Increases;
- Security NSIs, Retirement, and Other Benefits; and
- Increased Charges for County Provided Services.

Only courts that had *not* been a part of the Judicial Branch Workers' Compensation Program as of FY 2003–2004 needed to complete the Workers' Compensation Program form since cost information for participating courts is already available. AOC Court Interpreter Program staff and Office of Court Research staff are working with courts individually to determine any funding needs in the area of Court Interpreter Workload Growth. In addition, staff of the AOC's Center for Families, Children and the Courts are reviewing trial court Court-Appointed Counsel contracts and billings to assess additional funding needs in this area.

Courts submitted the requested information to AOC staff at the end of May. Staff have been analyzing these forms to determine funding needs.

The State Appropriations Limit and Its Impact on the Budget Request Process
Trailer legislation to the Budget Act of 2004 (SB 1102) amends Government Code section 77202(a) to significantly change the manner in which trial court funding

increases are computed and proposed. As amended, Government Code section 77202(a)(1) and (2) provides the following:

(1) In order to ensure that trial court funding is not eroded and that sufficient funding is provided to trial courts to be able to accommodate increased costs without degrading the quantity or quality of court services, a base funding adjustment for operating costs shall be included that is computed based upon the year-to-year percentage change in the annual State Appropriations Limit. For purposes of this adjustment, operations costs include, but are not limited to, all expenses for court operations, court employee salaries and salary-driven benefits, but do not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

(2) Non-discretionary cost driven by law or county government that exceed the annual State Appropriation Limit and other adjustments required to accommodate other operational and programmatic changes shall be separately identified and justified through the annual budget process.

The AOC Finance Division management team has met with Legislative and the state Department of Finance (DOF) staff to discuss the manner of implementation of the SAL computation in the development of the FY 2005–2006 trial court funding proposal. Staff will then work with the Trial Court Budget Working Group to draft guidelines for development of the proposal. These guidelines will be submitted to the Judicial Council for review and approval at a future meeting.

Based on discussions with the DOF, the majority of increased funding needs would be funded from the adjustment calculated based upon the annual SAL percentage change. DOF staff has agreed that, due to existing underfunding of the overall trial court base budgets, they will consider additional BCPs to adjust the trial court base budget so that as of June 30, 2005, the base would reflect an appropriate level necessary to support court operations. One BCP would address long-term structural deficiencies, including a need for additional judges, underfunded courts, security needs, and any other structural deficiency that is subsequently identified. The second will seek funding for unfunded FY 2004–2005 mandatory increases for court employee salaries, health benefits and retirement, and security salary, retirement, and other benefits, as well as increases in the costs of county provided services.

The implementation of the SAL adjustment will have an impact on the trial court budget process, while other parts of the budget process will remain unchanged. Staff will continue to work with the courts and the Trial Court Budget Working Group to develop recommendations to the Judicial Council for budget priorities

each year at its February meeting. These priorities will be established with the understanding that any requests that are not to fund new legislative mandates will likely have to be accommodated within the funding provided by the SAL change percentage. Forms will be sent to the courts each spring to gather the information necessary to determine the required level of funding for mandatory increases and any other established program priorities. An estimate of funding needs would be prepared in the fall, but courts will be encouraged to submit updated information throughout the spring. In the past, staff would notify the courts of the proposed allocation of requested funding at the time the Governor's Budget is published. This will change under the new process, because final SAL for the following fiscal year, upon which the SAL adjustment is calculated, is made public as part of the Governor's May Revision and is then subject to adoption by the Legislature. As mentioned previously, staff will accept changes to costs from the courts in the program areas being funded within SAL until the May Revision. During the interim, staff will develop options for allocating the estimated funding to be provided within the SAL percentage change. These options will be presented to the council during the summer of 2005, at the June meeting, if possible, otherwise at the August meeting.

Based on the language of Senate Bill 1102, there are four distinct categories of funding requests. These categories include the following:

1. Costs for existing program areas that will be funded entirely within the SAL percentage increase, such as the following:
 - Trial Court Staff NSIs, Health Benefits, and Retirement
 - Court Interpreter Workload Growth
 - Increased Costs for County Provided Services
 - Security Costs
 - Trial Court Workers' Compensation Cost Increases
 - Court-Appointed Counsel
2. Costs for compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program that are outside of the SAL percentage and will continue to be separately justified and funded through the standard budget process;
3. Non-discretionary cost increases resulting from new statutory mandates; and
4. Costs for non-discretionary program areas driven by county government that are above the SAL percentage, such as security historically has been,

and adjustments required to accommodate other operational or program changes.

Funding needs for programs in the first category listed above would no longer be submitted to the DOF. AOC Finance Division staff will solicit funding needs from the courts. Once the final SAL adjustment rate is known, staff will present recommendations on the allocation of the SAL funding to the council, no later than its August 2005 meeting. Even though BCPs are not formally submitted for these programs to the other branches, staff would still need to maintain information on these costs to submit to the DOF and the Legislative Analyst's Office, upon request. More importantly, in the event that it is later determined that the increased costs for any of these programs are above SAL, staff will need this level of detail in order to proceed to seek funding under the fourth category, mentioned on the previous page, to justify the existing trial court budget within the SAL base.

BCPs *would* be required for increased funding needs for program areas in the second, third, and fourth categories, although the timing for submission of the proposals in each may be different. Proposals for judicial compensation increases would be submitted as BCPs upon negotiation with the executive branch, normally in late fall; although adjustments to judicial compensation could occur at anytime, consistent with the timing of compensation changes for state employees.

Funding requests pertaining to the third category, in which non-discretionary cost increases result from the implementation of new statutory mandates, would still be subject to the requirement that the proposals must be submitted within 10 days of the enactment of the legislation.

Funding proposals related to the fourth category, where costs driven by county government are above the SAL percentage change, or adjustments are required to accommodate other operational or program changes, would normally be submitted in the fall and adjusted in the spring when the SAL adjustment rate is finalized. Requests in this funding category will require substantial justification as to why these cost increases cannot be accommodated from funding provided within the SAL increase. Because of the level of justification and documentation required to support this type of request, we anticipate that submission of these BCPs will be infrequent.

Increases Within the State Appropriations Limit

As mentioned previously, increases in funding for the following program areas that were approved as budget priorities by the Judicial Council for FY 2005–2006 fall within the SAL funding methodology:

- Trial Court Staff NSIs and Benefits;

- Increased Costs for County Provided Services;
- Court Interpreter Workload Growth;
- Trial Court Workers' Compensation Cost Increases; and
- Court-Appointed Counsel.

In addition, all, or at least a portion of cost increases driven by county government (Trial Court Staff Retirement and Security NSIs, Retirement, and Other Benefits) would also fall within the SAL increase. Staff will compile the adjustments courts indicate they will experience in these areas for FY 2005–2006. Once the SAL adjustment rate is known, staff will determine if all of the approved priorities, including those costs driven by county government, can be funded within the SAL increase. If a portion of the funding need driven by county government is determined to be above the level of funding increase that would be provided through the SAL methodology, staff will prepare a fall BCP which will be updated in the spring. As mentioned previously, this type of request will require substantiation of all requests to be funded within the SAL increase.

Recommendation

Staff recommends that the Judicial Council:

1. Direct staff to compile the FY 2005–2006 funding needs from the trial courts in the following FY 2005–2006 budget priority program areas:
 - Trial Court Staff NSIs and Benefits;
 - Increased Costs for County Provided Services;
 - Court Interpreter Workload Growth;
 - Trial Court Workers' Compensation Cost Increases;
 - Court-Appointed Counsel;
 - Trial Court Staff Retirement; and
 - Security NSIs, Retirement, and Other Benefits.

Once the SAL adjustment rate for FY 2005–2006 is known, staff will develop and present allocation recommendations, as appropriate, for adjustments in those programs that fall within the SAL increase, to the council no later than its August 2005 meeting.

2. Direct staff to submit fall budget change proposals for any program increases in approved priority areas that are determined to be above the SAL percentage.

3. Develop a fall budget package with supporting schedules, to be updated in the spring, which applies the estimated SAL adjustment rate for the following fiscal year provided by DOF staff to overall trial court base funding to determine the annual SAL adjustment, consistent with the provisions of Government Code section 77202. Staff shall submit this package to the DOF, and, subsequently, to the Legislature.

Rationale for the Recommendation

The preceding recommendations are consistent with the legislative provisions contained in Senate Bill 1102 regarding SAL, in terms of what types of cost increases are to be paid from within the SAL computation and those that can be requested outside of the SAL. Allocations of the funding received will be presented to the council no later than its August meeting, as the council is ultimately responsible for approving allocations to the trial courts.

Alternative Actions Considered

An alternative that was considered was to not submit any BCPs for this fiscal year. This would require the courts to fund all cost increases within the SAL adjustment, regardless of the county driven cost increases. This may result in some courts not being able to meet other mandatory needs in order to be able to pay their security increases.

Budget Change Proposals—Fall

After discussion with the DOF, staff have identified two BCPs that they propose be submitted in the fall. A description of each follows.

Base Funding

DOF staff have agreed to provide us with a one-time opportunity to request funding to adjust the base budget for the trial courts for ongoing structural deficiencies that have not been remedied with state funding. Staff recommend that this BCP consist of funding requests for the following components: (a) adding new judgeships and their complement of support staff where a judicial need has been identified, (b) addressing the needs of underfunded courts that were identified during the analysis of court reserves that occurred as part of the unallocated reduction process, (c) bringing courts up to the established standards in security, and addressing the funding required for security under Senate Bill 1396, and (d) addressing any other substantive ongoing structural deficiency.

- a) No new judgeships have been created and funded for the trial courts since FY 2000–2001. At that time, funding was provided for 20 new judgeships out of an original Judicial Council approved request for 50. At its October 26, 2001 meeting, the council approved the results of a statewide assessment of judicial need, including a ranked list of 150 recommended

new judgeships for the initial three-year plan. No new judgeships have been created yet as a result of that judicial needs assessment. The need for additional judgeships continues to be an important trial court issue. A separate report and recommendation on this subject will be presented at this meeting, in which the initial judicial needs assessment has been updated. Staff will recommend that the council direct them to pursue an additional 150 new judgeships with implementation staggered over 3 years, and to submit a fall BCP and corresponding legislation to this end. The legislation is proposed to make the first 50 judgeships effective January 1, 2005. Funding would be requested assuming the judgeships would be hired on a staggered basis with the average costs for FY 2005-2006 based on two months funding.

Each judgeship will include the following support staff:

- 2 courtroom clerks
- 1 court reporter
- 1 secretary
- 1 research attorney
- 1.1 bailiff

The 12-month ongoing costs for the judge and supporting staff (excluding facilities) are estimated at \$690,823 per judgeship. Including the standard complement of operating expenses and equipment (excluding lease costs), one-time costs per judgeship are estimated to be \$52,500. In addition, there is an undetermined one-time cost per judgeship for remodeling of facilities, owned or leased, and ongoing costs for leased facilities. Assuming an average of two months funding in FY 2005–2006 for each new judgeship, the estimated cost for all 50 judgeships, excluding ongoing and one-time facilities costs, would be \$6,194,358 in FY 2005–2006. There would also be annualized costs in FY 2006–2007 for the full 12-month cost of the positions. There would be partial year costs (based on staggered hiring during the year) for 50 additional new judgeships in FY 2006–2007, with annualized 12 month costs in FY 2007–2008, and again, partial year costs for 50 more judgeships in FY 2007–2008, and annualized costs for these positions in FY 2008–2009.

Staff is in the process of contacting the courts identified for receipt of new judgeships to confirm and document their need for additional judicial resources and their ability to provide facilities or acquire space for the positions. The costs provided above are based on averages. The BCP will utilize specific court-related costs for positions and facility needs.

- b) Staff presented recommendations to the Judicial Council at its July 7, 2004 meeting to address the ongoing and one-time unallocated reductions for FY 2004–2005. As part of the analysis necessary for that process, staff looked at the current funding levels for the courts. The courts were eventually divided into four clusters, based on number of judges, and three funding levels within each cluster – low, average, and high funded courts. Staff proposes a deeper review into the funding and staffing levels for those courts in the low funding level of each cluster. This review may indicate a need on the part of some of these courts for one-time funding in the current year and ongoing funding beginning in FY 2005–2006, in order to bring them up to an adequate funding base, to enable them to provide a sufficient level of service and access to justice for their communities. If additional current year funding is determined to be appropriate, staff will bring such proposals to the council for their consideration later this fiscal year. Some courts within the low funding level may be assisted through the funding and resources they would receive with proposed new judgeships. Several of these courts, however, are not scheduled to receive additional judgeships.
- c) Also at its July 7, 2004 meeting, the council approved permanent standards for the provision of security in the courts, in the areas of entrance screening and supervision, and a temporary funding ratio in the areas of courtroom, internal security and internal transportation. The Working Group on Court Security will be continuing to work on additional standards in those areas that do not have permanent standards. Many courts are below the standards as they now exist. For example, some currently have no entrance screening at any of their facilities.

Additionally, Senate Bill 1396 “The Law Enforcement Act of 2002,” (Chapter 1010, Statutes of 2002) defined allowable court security costs to include a variety of security-related costs. These allowable costs include such things as supervision through the rank of captain (most courts do not have the services of, or pay for anything above, sergeant); sheriff professional support services in areas like budget, human resources, and accounting; and various vehicle use costs in support of court security needs. The statute states that if, at the time the bill was enacted, courts were not already being charged for these services, benefits, or costs, they would not be charged for them until funding specifically to address these costs was requested and received through the state budget process.

Staff plan to determine, based on the new security standards, which portions of SB 1396 still apply for funding purposes, to gather this information from the courts and sheriffs, and determine what the cost

would be to (1) implement these services in the courts, where they do not currently exist, if practicable, and (2) pay for the services that are currently being provided but not charged to the court.

- d) Other substantive structural deficiencies may be identified that will require ongoing funding. Staff recommends it be given the authority to include these in the BCP if any arise.

As staff develop proposals on what to include in the baseline funding BCP, this information will be presented to the Executive and Planning Committee and the Judicial Council.

FY 2004–2005 Cost Adjustment

The Budget Act of 2004 (Chapter 208, Statutes of 2004) did not fully address mandatory funding needs for FY 2004–2005. The DOF acknowledged this in discussions with AOC staff before the budget was enacted, and agreed that these unaddressed funding needs would be reconsidered during FY 2004–2005. The program areas falling in this category included FY 2004–2005 costs for employee salaries, benefits, and retirement. Based on recent discussions with DOF, other FY 2004–2005 cost increases that have not been fully funded are recommended to be included. These are: security salaries, benefits, and retirement and increased costs for county provided services. These are costs that the courts will incur this fiscal year whether or not they receive additional funding. Staff propose to update the FY 2004–2005 funding needs of the courts in these areas, where necessary, and submit a fall BCP to seek funding to address them.

FY 2004–2005 Security Funding and Impact Assessment

AOC staff will be resurveying courts to confirm their need for current year funding adjustments and to assess the impact of the \$22 million security reduction on the level of security provided in the courts. At the July 7, 2004 Judicial Council meeting, the council approved \$4 million in one-time funds to assist courts that demonstrate a severe or adverse impact on their FY 2004–2005 court security plan resulting from the implementation of the transitional reduction allocation methodology. If the assessment indicates that this year's security budget, after taking the \$22 million reduction and allocating the \$4 million in one-time funds, is insufficient, authorize staff to request additional one-time funds in the current year.

Recommendation

Staff recommends that the Judicial Council:

- 4. Approve submission of a fall FY 2005–2006 budget change proposal to adjust the base budget for the trial courts for ongoing structural deficiencies

- in the areas of new judgeships; historical base budget underfunding; provision of security that is below established security standards and the provisions of Senate Bill 1396, where the provisions still apply; and any other identified substantive ongoing structural deficiency.
5. Approve submission of a fall FY 2005–2006 budget change proposal to address the current FY 2004–2005 unfunded mandatory needs in the areas of court employee salaries, health benefits, and retirement; security salaries, benefits, and retirement; and increased charges for county provided services.
 6. Authorize staff to seek additional one-time funds in the current year if, after resurveying the courts and updating their security needs, taking into account the \$22 million reduction, and allocating the \$4 million in one-time funds approved by the council at its July 7, 2004 meeting, it is determined that the overall court security budget remains insufficient to address public safety concerns in the state’s trial courts.
 7. Delegate to the Administrative Director of the Courts the authority to make technical adjustments to the recommended FY 2005–2006 statewide trial court budget proposals.

Rationale for Recommendation

Many courts still have a critical need for new judgeships. While the number of filings statewide has remained largely unchanged since the Judicial Council approved the 2001 California Judicial Needs Assessment Project, and its ranked list of 150 new judges proposed to be implemented over a three year period beginning in FY 2002–2003, the total number of filings and filings of the most complex case types have grown in a number of courts. More importantly, no new judgeships have been created since FY 2000–2001, resulting in an ongoing need that has not been addressed. Staff have updated the previous judicial needs assessment and will be presenting it, along with its new list of 150 ranked judgeships, to the council at this meeting.

Courts’ base budgets were established at the time state trial court funding was initiated. Negotiations were conducted between each court and their respective county with regard to a number of matters, including the division of the various fines, fees, and other payments made to the courts. Some courts had better relationships with their counties and were able to obtain a larger percentage of these revenues. Also, some counties were better resourced than others and were able to staff and pay their court employees better than others. These differences in the level of funding between courts have persisted to the present. The instituting of unallocated reductions, even those that are one-time in nature, has exacerbated

the fiscal problems being experienced by many courts, and has negatively impacted the level of service provided to the public. Providing additional funding to these courts to enable them to add additional staff to relieve the burden on existing staff and to permit a more acceptable provision of service would be beneficial to their communities and the state as a whole.

Staff believe that the review of base budgets will substantially fulfill the council's previous directive in February 2004 to review erosion of base budget and equalization of funding issues for the trial courts and the impact these have had on ongoing operations and develop a funding proposal if it is determined to be appropriate. If, based upon this review, it appears that ongoing funding is needed for these courts, staff proposes submitting a fall BCP for this purpose. The anticipated increased funding flexibility provided through the SAL and the future implementation of staffing standards is expected to eventually accomplish much of the remainder of the council's directive.

Security standards are being established to enable those people that use the courts, whether employees, parties to lawsuits, or the general public, to feel safe while in these facilities. Some courts provide higher levels of security than others because they were funded at a proportionately higher level by their county prior to implementation of state funding. Many courts, especially smaller courts, provide negligible to minimal security for their courthouses. While they may not have large numbers of potentially dangerous people entering their facilities, the increased need for public safety in all public areas, including court facilities, necessitates a careful assessment of the advisability of maintaining such limited security.

Most importantly, it is critical that an appropriate funding base be established upon which the SAL adjustment will be computed; otherwise, we will continue to perpetuate ongoing structural resource deficiencies. Allowing unfunded current year mandatory increases to remain unaddressed will exacerbate existing underfunding problems in courts already hard pressed to provide an appropriate level of service, and will also hurt those courts that may otherwise be adequately funded. Personnel and security costs are two of the highest, if not the highest, cost categories the courts must fund. For the most part, these increases are beyond their ability to control. Some courts are already absorbing unfunded court staff increases from previous fiscal years where contracts were concluded too late to be incorporated into budget requests, or the increases were beyond the level received by state employees. The growing gap caused by these unfunded increases along with the implementation of ongoing unallocated reductions and security reductions will most likely result in decreased levels of service and access to justice in many courts. The DOF has acknowledged that these costs were not fully funded for FY

2004–2005 and that funding needs in these areas would be considered during the current year. For these reasons, this funding should be pursued.

The allocation methodology for the \$22 million security reduction, which was approved by the council at its July 7th meeting, involves a transition period. The first half of the reduction will be accomplished by prorating \$11 million among all 58 courts. The second \$11 million will be applied utilizing the interim funding standards approved by the council. Applying the standards resulted in no additional reductions for many courts and significant reductions for a relatively small number of courts. While the council approved the use of \$4 million from the Trial Court Improvement Fund on a one-time basis to assist those courts that are adversely affected by the implementation of the \$22 million security reduction in the current year, the reduction impact statements from those courts facing the largest reductions may indicate that without additional funding beyond the \$4 million, they will not be able to accomplish the permanent efficiencies that will enable them to meet their portion of the reduction. The kind of ongoing changes to security programs that will be needed to meet the reductions may not be possible to implement in a single year. If review of the impact statements justifies pursuing additional funding in the current year, this would also give these courts more time to develop such practices.

Changes may be necessary to the recommendations presented in this report. Quick decisions may be required to meet deadlines imposed by the DOF, or other agencies. This recommendation will give the Administrative Director the authority to address these issues without the need to bring the matter back to the council.

Alternative Actions Considered

An alternative would be for the Judicial Council to take no action with regard to seeking funding of structural deficiencies, ongoing and one-time, at this time. This would result in perpetuating the long-standing need of courts for additional judicial positions and the continuing long-term use of assigned judges by some courts. It would also mean that the SAL computation would be made on a trial court budget that is insufficient. Again, this would result in the continuance of inadequate levels of funding for already underfunded courts.

Potential Fall BCPs

As mentioned previously, there are four categories of funding requests based on the trailer bill language. While it is not currently anticipated that we will be seeking funding to address costs driven by county government that are above the SAL percentage rate, or to accommodate other operational or program changes, in the event that such a need should arise, staff seeks the authority to submit a BCP to fund these costs in the fall.

Similarly, staff is not aware of any legislation that will go into effect during FY 2005–2006 that will impose increased financial obligations on the courts. However, should such legislation be enacted, staff seeks the authority to submit a BCP in the fall to request funding to address these costs.

Recommendation

Staff recommends that the Judicial Council:

8. Authorize staff to submit a fall BCP if county governments impose costs on courts that are above the SAL adjustment percentage, or if there is a recognized need to accommodate other operational or programmatic changes.
9. Authorize staff to submit a fall BCP if legislation is proposed that would impose an increased financial obligation on the courts in FY 2005–2006.

Rationale for Recommendation

Mandatory cost increases are not anticipated in the above areas; however, it is possible that the state or counties may propose and/or pass legislation that will impose increased costs on the trial courts. These types of obligations are acknowledged by the DOF to be exemptions to funding within the SAL percentage change. A fall funding proposal to the DOF should be submitted to address them should the need arise.

Alternative Actions Considered

No alternatives other than taking no action were considered.

Policy Directive Regarding Unallocated Reductions in FY 2005–2006

Courts have experienced one-time unallocated budget reductions over the past several years and ongoing unallocated reductions in FY 2004–2005. These reductions have impacted the courts and their ability to provide services to their communities in a variety of ways. In order to limit or eliminate future unallocated reductions, it is recommended that staff be directed to make every effort to ensure that there are no one-time or ongoing unallocated reductions to the trial courts' budgets in FY 2005–2006.

Recommendation

Staff recommends that the Judicial Council:

10. Direct staff to affirm the Administration's commitment that, based on the use of the SAL methodology for funding the trial courts, they will no longer be subject to one-time or ongoing unallocated budget reductions.

Rationale for Recommendation

The Budget Act of 2004 will require courts to absorb significant ongoing and one-time unallocated budget reductions during FY 2004–2005. These reductions will result in some courts making permanent changes in the way they do business and in the level of service they provide to their community. In order to prevent further erosion of service and to ensure public safety within trial court facilities, staff should endeavor to prevent any additional one-time or ongoing unallocated reductions to trial court budgets in FY 2005–2006.

Alternative Actions Considered

No alternatives other than taking no action were considered.

Comments from Interested Parties

None.

Implementation Requirements and Costs

After consideration by the Judicial Council, BCPs will be prepared for the two program areas proposed for fall submission and submitted to the DOF in late October. For those program areas that fall within the SAL, staff will identify trial court funding needs and develop allocation recommendations that will be presented to the council in summer of 2005.